

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DORIAN MYLES,

Defendant.

**Criminal Action No.: 1:23-CR-21-1
(JUDGE KLEECH)**

INITIAL SCHEDULING ORDER

On July 25, 2023, the presiding District Judge herein, the Hon. Thomas S. Kleeh, Chief United States District Judge, convened the above-styled matter for an Arraignment and for a Motion Hearing on the Government's motion [ECF No. 10] to seek review of an order releasing Defendant, Dorian Myles. At the proceedings before Judge Kleeh came the United States of America by Zelda E. Wesley, Assistant United States Attorney, and also came Defendant, in person and by his counsel, Sean Blythe Shriver.

The Court gave notice to the Government's attorney that pursuant to the Due Process Protections Act of 2020, the Court reminds counsel that under Brady v. Maryland, 373 U.S. 83 (1963) and its progeny, failing to disclose favorable evidence to the accused violates due process where the evidence is material either to guilt or punishment. Further, the Court noted that consequences for a Brady violation can include, but are not necessarily limited to, a vacated conviction and disciplinary actions against the prosecutor. The Court gave written notice to this effect to counsel, and ordered the same filed herein. [ECF No. 34].

Whereupon the Court determined that Defendant had received a copy of the Indictment stating the substance of the charge(s). Defendant waived reading of the Indictment and entered a not guilty plea to the charge(s) against him. Accordingly, the Court sets the following disclosure, pre-trial and trial dates:

IT IS ORDERED THAT:

(1) The United States Attorney shall provide Defendant's counsel with copies of pre-trial discovery and inspection on or before **August 10, 2023**.

The Government moved for reciprocal discovery, which was granted and is to be provided on or before **August 17, 2023**.

Any declination of disclosure, additional discovery or inspection and additional evidence shall be in accordance with LCrR16.02, 16.03, and 16.04.

(2) Exculpatory evidence shall be disclosed on or before **August 10, 2023**. LCrR 16.05.

(3) All motions, including any motion for a bill of particulars pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure and LCrR 47.01, shall be filed on or before **August 21, 2023**. All such motions shall contain or be accompanied by a memorandum or brief presented at the time of filing setting forth the reasons and legal support for granting such motion. If this memorandum or brief is not presented at the time of filing, the motion will be dismissed.

(4) Responses to all such motions with legal support or memorandum shall be filed on or before **August 28, 2023**.

(5) A hearing on all motions, if referred to the Magistrate Judge by the Court, shall be held by the Magistrate Judge on **August 30, 2023, at 9:00 a.m., at Clarksburg, West Virginia**. The defendant shall be present at the hearing on all pre-trial motions. The United States Marshals

Service requires that subpoenas for witnesses be issued ten days prior to the date of the hearing in order for them to be able to serve them.

(6) Rule 404(b), Giglio, and Roviaro evidence shall be disclosed **fourteen (14) days before trial**. LR CR P 16.06.

(7) It is requested that the government disclose materials described in 18 U.S.C. § 3500 (Jencks Act material) **fourteen (14) days before trial**.

(8) All proposed voir dire question, motions in limine (which must be limited to matters actually in dispute) and proposed jury instructions shall be submitted by counsel to the Court and opposing counsel **seven (7) days before trial**. LR Cr P 24.01.

(9) **Fourteen (14) days before trial**, counsel for each party shall submit to the Court and to opposing counsel, a list of probable witnesses and possible witnesses (identified as such), but not whether or not the defendant shall be a witness. The list shall state the full name and address of each witness and shall also contain a brief statement of the subject matter to be covered by each witness. Expert witnesses and record custodians shall be identified as such on the list. LR Cr P 16.07.

(10) **Fourteen (14) days before trial**, counsel for each party shall file with the Court and with opposing counsel a list of exhibits to be offered at trial. In addition, counsel for each party shall number the listed exhibits with evidence tags which may be obtained from the clerk and shall exchange a complete set of marked exhibits with opposing counsel (except for large or voluminous items or other exhibits that cannot be reproduced easily). LR Cr P 16.08.

(11) The date for the trial will be scheduled by the Court at the conclusion of all preliminary proceedings.

(12) If this matter results in the formulation of a plea agreement, counsel for the Defendant shall file with the Court a Motion for Change of Plea. Counsel shall attach the executed plea agreement or an unexecuted final proposed agreement as an exhibit to the motion. If there is no written plea agreement between the parties, but the Defendant intends to plead guilty to some or all of the Indictment/Information, counsel for the Defendant shall file with the Court a Motion for Change of Plea.

IF A PARTY DESIRES TO FILE A MOTION FOR A CONTINUANCE OF ANY SCHEDULED EVENT, COUNSEL FOR THAT PARTY SHALL, PRIOR TO THE FILING OF ANY MOTION, MEET AND CONFER WITH OPPOSING COUNSEL AND AGREE UPON THREE NEW DATES SHOULD THE MOTION BE GRANTED AND THAT INFORMATION SHALL BE INCLUDED IN THE MOTION. IF COUNSEL FOR THE OPPOSING PARTY OBJECTS TO A CONTINUANCE, THAT FACT SHALL ALSO BE NOTED IN THE MOTION.


(13) Defendant shall appear at every scheduled matter including, but not limited to, motion hearing and every other proceeding.

(14) Defense counsel shall notify the Clerk of Court in writing at least a week in advance if the services of an interpreter are required for a hearing or trial.

IT IS FURTHER ORDERED that Defendant be **REMANDED** to the custody of the **U.S. Marshals Service**. [ECF No. 35].

The Clerk of the Court is **DIRECTED** to provide a copy of this Order to parties who appear *pro se* and all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: July 27, 2023



MICHAEL JOHN ALOP
UNITED STATES MAGISTRATE JUDGE